

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13729, as amended, of Grant Park Nursing Home Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.48 for a proposed health care facility and a variance from the side yard requirements (Section 3305) in an R-5-B District at the premises 5051 Hayes Street, N.E., (Square 5179, Lots 1-6, 809,810, and the western half of Lot 811 and Square 5197, Lots 37-41, 55-58, 801 and the eastern half of Lot 811).

HEARING DATE: April 21, 1982

DECISION DATE: April 21, 1982 (Bench Decision)

1. The application as advertised requested a special exception for a health care facility under Paragraph 3101.414. That paragraph sets forth the standards for such facilities in R-1 Districts. At the public hearing, the Board granted the applicant's motion to amend the application as one for a special exception under Paragraph 3105.48, in lieu of Paragraph 3101.414. Paragraph 3105.48 sets forth the standards for health care facilities in R-5 Districts. The standards which the applicant must meet are identical in the two paragraphs.

2. The subject property is located in an R-5-B District on the south side of Hayes Street between 50th Street and Division Avenue, N.E. The site is bounded on the east by a twelve foot unimproved public alley and on the northeast by a portion of the now-abandoned right-of-way of the East Washington Railway Company.

3. The subject site is irregularly shaped and unimproved. The width of the lot is 290 feet across for the majority of the lot. The rear lot lines are not parallel to the front. There is city owned park-land on the south side of the site which the applicant, under a ninety-nine year lease agreement with the city, has agreed to maintain in exchange for the District Government's agreement to allow construction of an access road into the parking area. The access road connects to Nannie Helen Burroughs Avenue. A sixteen foot wide sewer easement runs through the middle of the site upon which no building can be erected.

4. The surrounding zoning includes R-5-B zoning to the east of the site and R-5-C zoning to the west. There are some single family detached residences in the adjacent R-5-C

District but no other residential uses within 200 feet of the site. In Zoning Commission Order No. 221, dated June 8, 1978, a portion of the subject site was rezoned from C-M-1 to R-5-B.

5. In application No. 13001, by order dated October 22, 1979, the Board granted an application for a side yard variance to the same applicant. No special exception was required for the nursing home use at that time.

6. The applicant proposes to construct a health care facility which will contain 296 beds. Approximately 17,000 square feet of the facility is proposed to be devoted to ancillary uses. The building will be fifty-nine feet in height and contain a floor area ratio of 1.8. Lot occupancy will be sixty percent. The facility will employ 185 persons within the health care facility, with an additional fifteen or more in the ancillary space. Sixty-one off-street parking spaces are to be provided.

7. The building will be erected on a portion of the site located to the east of the sewer easement. The main entrance to the facility will be on the west side of the building, facing the parking lot.

8. Because of the irregular shape of the lot, the building as proposed will have a twenty-three foot side yard on the west side. The majority of the building has a side yard on the west in excess of 140 feet. The east side of the building will be located on the property line which abuts the twelve foot unimproved public alley, and has no side yard.

9. The shape, configuration and size of the building were dictated by the need to provide an economically feasible design for the nursing home. The subject site is affected by an exceptional situation or condition as a result of the location of the sewer easement which runs through the middle of the site and the need to design an economically feasible building. These factors result in a practical difficulty to the applicant in complying with the side yard requirements of Section 3305.4 of the Zoning Regulations. The facts establishing the exceptional condition and the applicant's practical difficulty are unchanged from those found by the Board when it granted a side yard variance in BZA Application No. 13001.

10. The proposed facility is a health care facility as defined in the Zoning Regulations. Its capacity will not exceed 300 persons not including resident supervisors and their family.

11. There is no community-based residential facility for five or more persons within the same square and within a

radius of 1,000 feet from any portion of the subject property.

12. The Zoning Regulations require the Board to determine how many off-street parking spaces are required. Sixty-one off-street parking spaces will be located on the site. The applicant will provide sixty spaces in a lot to the west of the building, and one space will be located adjacent to Hayes Street. A landscaping strip will serve as a buffer between the parking area and nearby property which is separated by an alley from the site. Access to the lot will be from one curb cut on Nannie Helen Burroughs Avenue, N.E. The applicant also proposed a driveway from Hayes Street. Access to the building for service and loading purposes will also be from Hayes Street.

13. The applicant has been issued a Certificate of Need to operate the proposed health care facility. The applicant has established that all other code and licensing requirements either have been met or on completion of the facility will be met.

14. There will be no adverse traffic or other impact resulting from the proposed use. Nannie Helen Burroughs Avenue, N.E., which will provide the major access to the parking area on the site, is a major commuter road. The occupants of the facility who will be provided with residential care will not generate any traffic. The facility is well served by subway and bus transportation and it is anticipated that most of the employees will commute by public transportation. Visitor traffic is expected to be relatively low, with the peak number of visitors arriving on weekends. Circulation in and out of the facility is more than adequate. The proposed operation will not generate noise or have any adverse impacts on the neighborhood.

15. Parking can be allocated between employees and visitors to the facility. The applicant estimated that twenty-six parking spaces would be needed for employees, given the nature of the shifts of employees. The remaining spaces would be reserved for visitors.

16. The Office of Planning and Development, by memorandum dated April 16, 1982 and by testimony at the hearing, recommended approval of the application. The OPD reported that this application complies with the requirements of Paragraph 3105.48, and that the requested variance is supported by the exceptional condition of the sewer easement. The OPD was of the opinion that the proposed facility will be of substantial public benefit and will not impair the intent, purpose and integrity of the Zoning Regulations. The Board concurs with the findings and recommendation of the OPD.

17. The Chairman of Advisory Neighborhood Commission 7D appeared at the hearing and reported that the ANC supported the application. The ANC submitted a letter to that effect dated April 21, 1982. The ANC did not identify any issues and concerns for the Board to address.

18. Representatives of several community organizations testified in support of the application, because of the positive effects that the proposed development would have on the area. Such effects include increased health care services for the elderly, employment and other spin-off benefits. A petition with a large number of signatures from residents in the area in support of the application was submitted for the record.

19. The subject site falls within the boundaries designated by the Marshall Heights Community Development Organization, Inc. (MHCDO) as part of its planning area for Ward 7. The construction of the health care facility is one of the goals of that organization. According to the development study for MHCDO prepared by Nash-Hammond, larger scale development by the private sector has virtually bypassed by Ward 7 neighborhoods. The president of the MHCDO appeared at the hearing and testified in support of the application.

20. The application was opposed by the resident of property at 5015 Hayes Street, which is immediately adjacent to the subject property on the north. The opposition was based on the potential adverse impact that the proposed use would have on parking and traffic. The opposition argued that parking in the subject area is already impacted by other uses, and that the proposed facility would exacerbate those conditions. The Board reviewed photographs in the record, testimony of the applicant and the persons in support. The Board finds that the proposed use has sufficient parking to serve the need of employees and visitors. There is also additional parking available on Nannie Helen Burroughs Avenue. The Board finds that there may be other remedies for addressing the area's parking problems, but that the proposed use will not exacerbate the existing conditions. Traffic to and from the site will primarily use Nannie Helen Burroughs Avenue. Traffic to and from the service and loading area will be limited to only a few trips per day. The Board will further reduce the impact on Hayes Street by requiring the elimination of the driveway to the parking area from Hayes Street.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. In order to be granted the requested exception, the applicant must

demonstrate compliance with Paragraph 3105.48 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The proposed facility will not exceed 300 beds and there are no other community based residential facilities in the subject square or within a radius of 1,000 feet from any portion of the subject property. Off-street parking will be adequate, appropriately located and screened. The proposed facility will meet all applicable code and licensing requirements and will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of facilities in the area.

The Board further concludes that the approval of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to effect adversely the use of neighboring property in accordance with said regulations and map.

As to the side yard variance the Board concludes that the variance requested is an area variance, the granting of which requires the showing of some exceptional situation or condition of the property which causes a practical difficulty upon the owner. The Board concludes that the location of the sewer easement and the need to design an economically feasible building combine to cause the exceptional condition and practical difficulty for the owners. The Board further concludes that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and integrity of the Zoning Regulations.

Accordingly, it is therefore hereby ORDERED that the application be GRANTED subject to the following conditions:

1. The facility shall be constructed in accordance with the plans marked as Exhibit No. 3 of the record, except as those plans are modified by the other conditions set forth herein.
2. The landscape plan marked as sheet A-4 of Exhibit No. 3 shall be modified by adding a row of Canadian Hemlocks along the west and north sides of the parking area. Such Hemlocks shall have an initial planting height of at least four feet and shall be planted two feet on center.
3. Of the sixty parking spaces in the parking lot, twenty-five shall be reserved for and clearly marked for employees and the remaining thirty-five shall be reserved for and clearly marked for visitor parking.
4. The applicant shall landscape and maintain the

adjoining unimproved public alley to the east unless and until the alley is paved.

5. The driveway from Hayes Street leading to the parking area shall be deleted and shall be replaced with grass and a six inch concrete curb.

VOTE: 5-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh, Charles R. Norris and Douglas J. Patton to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: APR 23 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.